

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NEW YORK LIFE INSURANCE COMPANY,

Plaintiff,

v.

No. 2:22-cv-813 GJF/KRS

PAUL M. ARAGON,
JOSEPH E. FITZPATRICK, III,
and DANIEL FITZPATRICK,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court *sua sponte* and upon review of the record. Plaintiff initiated this action on October 28, 2022. (Doc. 1). The docket reflects that Plaintiff filed executed waivers of service for Defendants Joseph Fitzpatrick and Daniel Fitzpatrick on November 30, 2022, and for Defendant Paul Aragon on March 9, 2023. (Docs. 4, 5 and 8). These waivers indicate that responsive pleadings were due in November 2022 for Defendants Joseph Fitzpatrick and Daniel Fitzpatrick, and in February 2023 for Defendant Aragon. Defendant Daniel Fitzpatrick filed a CM/ECF Pro Se Notification Form on January 12, 2023. (Doc. 6). However, no Defendant has filed an answer or other responsive pleading.

Rule 41(b) of the Federal Rules of Civil Procedure authorizes the Court to dismiss an action *sua sponte* for failure to prosecute. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003); *see also* D.N.M. LR-Civ. 41.1 (“A civil action may be dismissed if, for a period of ninety (90) calendar days, no steps are taken to move the case forward.”). More than ninety days have passed since Plaintiff took any step to move this case forward.

IT IS THEREFORE ORDERED that **on or before May 4, 2023**, Plaintiff must provide the Court with a written explanation showing good cause why this case should not be dismissed for failure to prosecute.

A handwritten signature in black ink, reading "Kevin Sweazea". The signature is written in a cursive, flowing style.

KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE